IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 14TH NOVEMBER 2006 / 23RD KARTHIKA 1928

WP(C).No. 12265 of 2004(I)

---

PETITIONER:

---

1. HARIDASAN B.K. AGED 47 YEARS,
   S/O.A.K.KUTTAPPAN, BLATHITHARA, CHAMPU P.O.
   VAIKOM, DISTRICT KOTTAYAM.

2. SALIMON, AGED 39 YEARS,
   S/O.PEETHAMBARAN, CATHANKODU, THIRUVARPU,
   KOTTAYAM.

3. SURESH K.D.AGED 35 YEARS,
   S/O.LATE DAMODARAN, KONGINIPARAMBIL, MALAKUNNAN PO
   CHANGANACHERRY, KOTTAYAM.

4. K.V.DEVARAJAN, AGED 33 YEARS,
   S/O.VISWAMBARAN, KOCHUMADATHIL,
   KATHIKUNNU, VAIKOM.

5. LEGAV, O.A. AGED 30 YEARS,
   S/O.ARAVINDAKASHAN, UDATTUTHARAYIL,
   POLASSERY, VAIKOM, DISTRICT KOTTAYAM.

6. MANAF C.A. AGED 30 YEARS,
   S/O.ABDUL KHADER, ONATTU HOUSE, PADINJAREKKARA PO,
   VAIKOM, KOTTAYAM DISTRICT.

7. PRESENAN M.V. AGED 47 YEARS,
   S/O.VELAYUDHAN, NAIKARI, VELLOONI P.O.
   KOTTAYAM.

8. C.K.RADHAKRISHNAN, AGED 39 YEARS,
   S/O.RAGHAVAN PILLAI, CHERIYA KARAKKADA, KILIROOR
   NORTH, KOTTAYAM.

9. SINDHU.G.K. AGED 28 YEARS,
   D/O.KUMARAN, GURUKRIPALAYAM, ANIKKADU P.O.
   KOTTAYAM.

10. M.M.SURENDRAN, AGED 38 YEARS,
    S/O.MADHAVAN, MANAKKACHIRAYIL, VADAYOOR P.O.
    VAIKOM.

11. SUNIL K.N. AGED 41 YEARS,
S/O.NARAYANAN, KADAVILPARAMBIL, AMBIKA MARKET P.O.
VAIKOM DISTRICT KOTTAYAM.

BY ADV. SRI.K.REGHU KOTTAPPURAM

RESPONDENTS:
---

1. THE DISTRICT OFF8CER,
THE KERALA PUBLIC SERVICE COMMISSION,
DISTRICT OFFICE, KOTTAYAM.

2. THE DISTRICT CO-OPERATIVE BANK KOTTAYAM
LIMITED, REP.BY ITS GENERAL MANAGER,
KOTAYAM DISTRICT CO-OPERATIVE BANK LIMITED,
KOTTAYAM.

3. THE JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES, KOTTAYAM.

4. K.D.DEVASSIA, PEON, THE DISTRICT
CO-OPERATIVE BANK LTD. GANDHI NAGAR BRANCH,
GANDHI NAGAR, KOTTAYAM.

5. JOHNY, PEON, MAIN BRANCH,
KOTTAYAM DISTRICT CO-OPERATIVE BANK LTD., VAIKOM.

BY ADV. SRI.P.C.SASIDHARAN, SC, KPSC (R1)
SRI.H.B.SHENOY
SRI.B.ASHOK SHENOY
SRI.RAMACHANDRAN NAIR(R2)
BY SENIOR GOVT. PLEADER SRI.P.N.SANTHOSH.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/11/2006, ALONG WITH WPC NO. 11250 OF 2005 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

## APPENDIX

EXT:P1 TRUE COPY OF THE RANKED LIST FOR THE POST OF PEON/WATCHMAN VIDE NO.RL/157/03/DOK DATED 16.4.2003 ISSUED BY THE FIRST RESPONDENT IN PURSUANCE OF SELECTION ON THE BASIS OF OBJECTIVE TYPE TEST HELD ON 22.7.2000

EXT.P2 TRUE COPY OF THE JUDGMENT DATED 5.12.2002 IN OP NO.1913 OF 2001

EXT.P3 TRUE COPY OF THE PROFIT AND LOSS ACCOUNT FOR THE YEAR ENDED ON 31 MARCH, 2003 AS PER THE REPORT DATED 12.7.2003 FOR THE YEAR 2001-2002.

//TRUE COPY//

P.S. TO JUDGE.

**J.M. JAMES, J.**

---

W.P.(C) Nos. 12265 of 2004
11250 of 2005
16104 of 2005
20510 of 2005
2913 of 2006 &
18281 of 2006

---

Dated this the 14th November, 2006.

**J U D G M E N T**

The grievances of the writ petitioners in W.P.(C) Nos.12265/2004, 11250/2005 & 16104/2005 are that though they are the rank holders, as per the list published by the Kerala Public Service Commission to the post of Driver and Peon cum Watchman, they are not appointed, against the existing vacancies in Kottayam District Co-operative Bank Ltd. It is, therefore, prayed that the respondents, Kerala Public Service Commission and the Kottayam District Co-operative Bank Ltd. may be directed to appoint them. It is further prayed that temporary workers of the second respondent Bank may also be replaced.

2. The prayer of the writ petitioner, C.V.Murali, in W.P. (C) 2913/2006, is to advice him to the post of Driver, his name being included by the first respondent in its supplementary list, and

as the 4th respondent, N.Rajeev Kumar, had relinguished his claim to the post of Driver. An affidavit to that effect had been filed by the 4th respondent, who entered appearance before this Court, through an Advocate.

3. W.P.(C) No.20510/2005 is filed by the writ petitioner, Lathika, praying to direct the Public Service Commission to advice candidates for appointment in Kottayam District Co-operative Bank, from the rank list published on 16.4.2003.

4. W.P.(C) 18281/2006 is preferred by the writ petitioner, Prasenan, for a direction to the 7th respondent to apprise this Court, whether any claim in respect of respondents 1 to 4, the temporary employees of the District Co-operative Bank, Kottayam, exist even now.

5. I have heard the arguments advanced by the learned counsel appearing for the respective parties. Though different prayers are made through all these writ petitions, the main contention of the learned counsel, Sri.Reghu Kottappuram, is that the writ petitioners, being the rank holders in the list, published by the Kerala

Public Service Commission, the latter be directed to advice the candidates, as the persons working in the posts of Driver, Peon/watchman, or the other posts, are those appointed by the District Co-operative Bank, Kottayam, purely on temporary basis, and on extraneous considerations.

6. The learned Standing Counsel appearing for the Kottayam District Co-operative Bank Ltd., has submitted that all the vacancies that arose or were existing in the Bank, had already been reported to the Kerala Public Service Commission. It was clarified during the hearing that two representations had been made before the Registrar, Co-operative Societies, requesting to permit the District Co-operative Bank, Kottayam, to appoint the temporary employees, considering their long tenure of service in the bank, and also due to the celebration of 100 years of commencement of the Co-operative Movement.

7. During the hearing, the learned Senior Government Pleader submitted that the representations made by the District Co-operative Bank, Kottayam, had been rejected, in view of the legal principles contained in **Secretary, State of Karnataka and others**

**v. Uma Devi and others** *(2006 (4) SCC 1)*, wherein, it was held that the Government or their instrumentalities may take steps to regularise as a one time measure, the services of such irregularly appointed persons, who worked for ten years or more in duly sanctioned posts, but not under the cover of Orders of the Courts or Tribunal, and, should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that required to be filled up, in cases where temporary employees or daily wagers are being now employed.

8. The learned Standing Counsel appearing for the Kerala Public Service Commission had submitted that, on receipt of the report of the existing vacancies of the District Co-operative Bank, Kottayam, steps had already been taken, and advice memoranda are being processed to be issued to the prospective candidates. However, it is clarified by the counsel for the Bank that because of the interim orders passed by this Court, 12 vacancies had been reported to the PSC, before the expiry of the rank list, the period of which had already expired, in respect of peons/watchman on 15.4.2006, and in the case of drivers, the list expired on 26.1.2006. As the vacancies had already

been reported, the writ petitioners are entitled to be adviced, provided, they are within the eligibility categories of appointment, and depending upon the ranking, together with the rotations, as per the K.S. & S.S.R.

9. In view of the above facts, these writ petitions are disposed of with the following directions:-

i) The writ petitioners who are eligible to be appointed from the rank list, against the vacancies that had been reported, consequent on the interim orders passed by this Court, shall be adviced, within two months from the date of receipt of a copy of this judgment.

ii) The first and second petitioner in W.P.(C) No.11250/2005, are also the petitioners 2 and 7 in W.P.(C) No.12265/2004. Hence the same shall be noted by the Kerala Public Service Commission, in order to avoid repetitions of issuance of appointment orders.

iii) The decision taken on the appeal(s) preferred by the temporary employees, respondents 5 to 8, in W.P.(C) No.16104/2005, before the Government, shall be communicated to them, at the earliest.

iv) In the light of the above directions, no further orders are required in W.P.(C) No.18281/2006, and, therefore, the said writ petition is dismissed as infructuous.

v) In the light of the submission allegedly given by the 4th respondent, Rajeev Kumar, before the Kerala Public Service Commission, relinquishing his claim to be appointed as the driver in the District Co-operative Bank, Kottayam, the prayer of the writ petitioner, C.V. Murali, in W.P.(C) No. 2913/2006, be considered, as his name is included under Ezhava vacancy, in the supplementary list, which came into effect on 27.1.2003 (Ext.P1). The same shall be done, in accordance with the K.S. & S.S.R.

vi) The vacancies of peons/watchman to the District Co-operative Bank reported to the P.S.C, W.P.(C) No.20510/2005 has become infructuous, and, hence dismissed.

**J.M. JAMES,**
**JUDGE**

**nj.**